

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Steven Bernard Bogard,

Petitioner, Case No. 19-cv-13335

v.

Judith E. Levy
United States District Judge

Patrick Warren,

Mag. Judge David R. Grand

Respondent.

_____/

**ORDER DENYING PETITIONER'S MOTION TO FILE
PROTECTIVE PETITION AND TO STAY AND ABEY HABEAS
CORPUS PROCEEDINGS [7]**

On November 12, 2019, Michigan state prisoner Steve Bernard Bogard filed a petition for writ of habeas corpus under 28 U.S.C. § 2254. (ECF No. 1.) On November 25, 2019, the Court issued an order requiring Bogard to correct certain filing deficiencies within 21 days or risk dismissal of the petition without prejudice. (ECF No. 3.) Bogard failed to correct the deficiencies within the time allowed so, on January 17, 2020, the Court dismissed the petition without prejudice. (ECF No. 5.) Now before the Court is Bogard's Motion to File Protective Petition and to Stay and Abey Habeas Corpus Proceedings. (ECF No. 7.)

Bogard asks the Court to stay this case while he exhausts additional claims based upon newly-discovered evidence in state court. The Court may not do so for two reasons. First, the motion is moot because the matter is no longer pending before the Court. Second, after filing his petition before this Court, Bogard filed another habeas corpus petition challenging the same convictions challenged here. The second petition, which did not suffer from the same filing deficiencies as the first, was denied on the merits by the United States District Court of the Western District of Michigan. *See* 3/26/2020 Opinion, *Bogard v. Horton*, No. 20-00016. (ECF No. 9.)

For the reasons set forth above, the Court DENIES Bogard's Motion to File Protective Petition and to Stay and Abey Habeas Corpus Proceedings. (ECF No. 7.)

IT IS SO ORDERED.

Dated: August 6, 2020
Ann Arbor, Michigan

s/Judith E. Levy
JUDITH E. LEVY
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on August 6, 2020.

s/William Barkholz
WILLIAM BARKHOLZ